

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE southern DISTRICT OF TEXAS
DIVISION

United States Courts
Southern District of Texas
FILED

OCT 04 2019

David J. Bradley, Clerk of Court

John Kennemer TDCJ # 2197190
Plaintiff's Name and ID Number

Darlington Unit of The Texas Department
Place of Confinement of Criminal Justice

CASE NO. _____
(Clerk will assign the number)

v.

Brayn Collier / Executive Director of TDCJ
Defendant's Name and Address P.O. Box 99 Huntsville Texas
77342

A. Chevallier / Assistant warden 59 Darlington Rd Houston
Defendant's Name and Address Texas 77583

Defendant's Name and Address
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE. ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of \$400.00.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "...if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? ___ YES ☒ ___ NO
- B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: _____
 2. Parties to previous lawsuit:

Plaintiff(s) _____

Defendant(s) _____
 3. Court: (If federal, name the district; if state, name the county.) _____
 4. Cause number: _____
 5. Name of judge to whom case was assigned: _____
 6. Disposition: (Was the case dismissed, appealed, still pending?) _____
 7. Approximate date of disposition: _____

II. PLACE OF PRESENT CONFINEMENT: Darrington Unit of the TEXAS DEPARTMENT OF Criminal Justice

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? ☒ YES ☐ NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: John Kennemer TDCJ# 2199180 Darrington Unit, 59 Darrington Road, Rosharon, Texas, 77583

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Bryan Collier Executive Director of the Texas Department of Criminal Justice P.O. Box 99, Huntsville, Texas 77342

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

This man is entrusted to protect inmates incarcerated by his agency. He failed to provide water needed for human life. He used cruel and unusual punishment

Defendant #2: A. Ghevalier Assistant Warden 59 Darrington Road, Rosharon, Texas 77583

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

This warden had direct knowledge the inmates under her had no water

See Exhibit A+B

Defendant #3:

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #4:

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5:

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

Darrington Creek Trustee Camp
On the 12th of August Warden Armstrong was sent a T-00 via United States Mail and sent
in Regular "Trustee mail" stating "No water on Trustee Camp." see Exhibit "A."
Assistant Warden answered the one sent to her via United States mail. She
said "Addressed" and signed it 8/20/19. There was still water problems as of
9/19/19. As of 9/19/19 the water fountains (5) on the camp are still broke.
There are periods of as much as 24 hours with out drinking water during times when
the Heat Index is over 107°. A 2nd notice of no water on the camp was mailed,
via U.S. mail to Warden Chevalier on the 19th of August. It was also sent to
Warden Armstrong and Major Pharr via "Trustee mail" Warden Chevalier was
once again the only one to acknowledge receipt. She sent it back to me
with the notation "Addressed" and signed it 8/23/19. Please see Exhibit "A" and "B."
 VI. RELIEF: By Bryan Collier is responsible for the actions of the Agency.

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

VII. (1) Water at Unit tested at all points water is drank from (2) water coolers (3) water fountains (4) Filtered
drinking water (5) Ice to cool water to 60° (6) Major water program (7) Damages (money) to those harmed
by lack of water, heat, or any heat illness (8) Collier jailed 90 days for lying (9) Chevalier Fired
 GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

John DAVID Kennemer, J. D. Kennemer, David Kennemer

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

TDCJ# 2197180 (I do not remember any other ones)

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES X NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date sanctions were imposed: _____

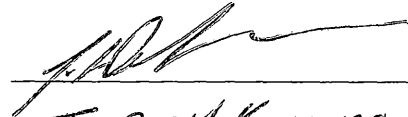
4. Have the sanctions been lifted or otherwise satisfied? YES NO

C. Has any court ever warned or notified you that sanctions could be imposed? YES ~~NO~~

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): _____
2. Case number: _____
3. Approximate date warning was issued: _____

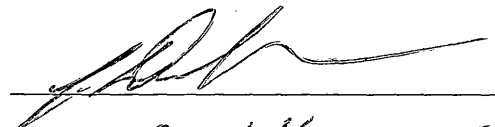
Executed on: 9/19/19
DATE


J. David Henneker
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 19th day of September, 20 19.
(Day) (month) (year)


J. David Henneker
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

"Exhibit A"

NO WATER ON Trustee Camp!

Sgt. Panzi was contacted by
C/O Punwoose about 3 dorm not having
water or Ice in the cooler since
10:30 am.

Sgt Panzi was ~~also~~ called by
C/O EGBUCKILL about not having
any water in 1 dorm since 12:15 pm.
The day room has had no water
since 11:00 am.

It is now 3:30 pm
4.5 hours with no water.

C/O Punwoose was told to "stay on his post with
no Radio Battery."

Addressed
8/20/19
Chauhan

John Kennemer TDC# 2197180

Francisco Esparza TCC# 2203336

Dist Naim

TDC# 2082144

Michael Bailey

Larry Dailey

Billy J. Cooper 1074002

Malcolm Curtis #2182750

Jean Garcia #2200580

Joshua Diaz #2168698

JONATHAN HART #02217134

Aldo Valderama #1714985

Montanez, Benjamin

Todd W. Williams

2140549

1971187

02203566

#1540613

#617693

2ND Notice of NO Ice Water ON The Camp

To: Assistant Warden Chevalier

3:37pm
8/12/19

cc Major Pharr
cc Warden Armstrong

We are out of water in 1dorm, 2 dorm & 3dorm.

Sgt. Danzi was contacted by C/o Punwoose, from 1dorm and told her we have no ice/water. She said ok. It was said "The Unit is out of ice."

This is incorrect! There is Ice in the ice machine at the back of The Farm office. The machine ~~was~~ Full as of 2:11pm. There is also Ice on the main building.

Danzi will not go and get the Ice, or let the rover go get it.

Ran out of water at 4:20am
as of NO Ice 3:48pm

Added
8/23/19
chd.

4 hours 21 minutes

as of 3:28 phones were off so we cannot call and ask our family to alert someone of our condition
~~but~~ witnessed by these inmates

John Kennemer 2147180

D. Baker 2199319

Robbie Walker 1854340

J. GARCIA 2200580

Tony D. Williams 617693

J. HART 03217134

Rene L. Duran 2170818

James Rike 645927

Copy mailed To:

Keith Burgham 220366

Branda Kennemer

Buck R. 1975146

7444 Fallen Trail
Fort Worth Texas

7-172

2ND Notice of NO Ice Water on The Camp

Case 3:19-cv-00335 Document 1 Filed 10/04/19 in TXSD Page 8 of 16

To: Assistant warden Chevalier

3:37pm
8/18/19

CC Major Pharr
CC Warden Armstrong

We are out of water in 1 dorm, 2 dorm & 3 dorm.

Sgt. Danzi was contacted by C/O Punnoose, from 1 dorm and told her we have no Ice/water. She said ok. It was said "The Unit is out of ice."

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James Rike 645927

Keith Burman 2203566

Buffy Smith 1975146

2174151

D Baker 2199319

J. GARCIA 2200580

J. HART 02217134

Copy mailed To:
Brenda Kennemer
7494 Fallen Trail
Fort Worth Texas
76123

To: Assistant Warden Chevalier 8/19/19
Darrington Unit

I-60
NO ICE WATER ON THE CAMP

John Kennemer
TCL-23

2197180
outside yard / Kubota Driver

[illegible]

33.301 MEDICAL CO-PAY OWED: 00

FEDERAL COURT FEE OWED: 00

TEXAS COURT FEE/CHARGE OWED: 379.75

INDIGENT SUP. OWED: 00

LOCATION: TRUSTY CASH 1 02 UNIT: DA

NAME: KENNEMER, JOHN DAVID

ACCOUNT NUMBER: 02197180

DATE: 04/30/19

BEGINNING BALANCE: 1.02

		WITHDRAWALS	DEPOSITS	BALANCE
04/19	WU B KENNEMER			101.05
01	CM 0001000 000000COURTFEE	10.00	100.00	101.05
01	PT 0001000 000000COURTFEE	77.25		91.05
01	CM	13.30		13.77
05	CM	1.50		15.47
19	WU C CARTER		15.00	13.97
22	PT 0000150 000000COURTFEE			13.97
22	PT 0000150 000000COURTFEE			88.97
25	WP WEB SALE D KENNEMER			75.00
26	WU D KENNEMER		75.00	67.00
26	CM 0000750 000000COURTFEE	13.85		67.00
26	PT 0000750 000000COURTFEE	7.50		67.00
26	WS RECEIPT OF WEB SALE			67.00



INMATE TRUST FUND ACCOUNT ARE DEMAND ACCOUNTS. YOU WILL NOT EARN ANY INTEREST. YOU MAY WANT TO DEPOSIT EXCESS FUNDS IN A SAVINGS INSTITUTION OF YOUR CHOICE.



TFSTMT

22.610 MEDICAL CO-PAY OWED:

.00

FEDERAL COURT FEE OWED:

.00

TEXAS COURT FEE/CHARGE OWED:

319.28

LOCATION: TRUSTY CAMP 1 023UNIT: DA

NAME: KENNEMER, JOHN DAVID

ACCOUNT

DATE: 08/30/19

NUMBER: 02197160

INDIGENT SUP. OWED: .00 OTHER HOLD AMOUNT .00

BEGINNING BALANCE:

33.13

DATE	ITEM/DESCRIPTION	WITHDRAWALS	DEPOSITS	BALANCE
08/19				
12	CM			55
26	WU K BURCHFIELD	22.60	100.00	100.55
26	PT 0001000 000000COURTFEE	10.00		90.55
29	WU D KENNEMER		50.00	140.55
29	CM	82.10		58.45
29	PT 0000500 000000COURTFEE	5.00		53.45

IMMATE TRUST FUND ACCOUNTS ARE DEMAND ACCOUNTS. YOU WILL NOT EARN ANY INTEREST. YOU MAY WANT TO DEPOSIT EXCESS FUNDS IN A SAVINGS ACCOUNT OF YOUR CHOICE.



32.51 MEDICAL CO-PAY OWED:

FEDERAL COURT FEE OWED:

TEXAS COURT FEE/CHARGE OWED: 334.25

FESTHT

LOCATION: TRUSTY CAMP 1 02BUNIT: DA

NAME: KENNEMER, JOHN DAVID

ACCOUNT

DATE: 07/31/19

NUMBER: 02197160

INDIGENT SUP. OWED: 00 OTHER HOLD AMOUNT 00 BEGINNING BALANCE: 82.25

07/19	ITEM/DESCRIPTION	WITHDRAWALS	DEPOSITS	BALANCE
01	CM	76.45		5.80
03	CM	5.25		50.55
22	WU K BURCHFIELD		100.00	100.55
22	PT 0001000 000000COURTFEE SB CR1708	10.00		90.55
25	WU D KENNEMER		50.00	140.55
25	PT 0000500 000000COURTFEE SB CR1708	5.00		135.55
29	CM	95.15		40.40
31	CM	7.25		33.15

INMATE TRUST FUND ACCOUNTS ARE DEMAND ACCOUNTS. YOU WILL NOT EARN ANY INTEREST. YOU MAY WANT TO DEPOSIT EXCESS FUNDS IN A SAVINGS INSTITUTION OF YOUR CHOICE.

John Karpman
702# 2197190
Dorington Unit
59 Dorington Road
Koslars Texas
77583

Legal
mkt
3716

United States Courts
Southern District of Texas
FILED

OCT 04 2019

cover request for relief

David J. Bradley
Clerk of Court
Court Clerk

Keith Ellisons Court
Bob Casey United States Court House
5115 Kusk Ave
Houston Texas 77002

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FILED

OCT 04 2019

David J. Bradley, Clerk of Court

